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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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08/612,128 03/07/96 CALANDRA

F 060273 EXAMINER

C5M1/0930
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PITTSBURG PA 15219-1818

ART UNIT TAYLOR, D	PAPER NUMBER 10
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3506
DATE MAILED:

09/30/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 7/18/97

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-24 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☐ Claim(s) _____ is/are allowed.
☒ Claim(s) 1-24 is/are rejected.
☐ Claim(s) _____ is/are objected to.
☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☐ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.
☐ received in Application No. (Series Code/Serial Number) _____
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
☐ Interview Summary, PTO-413
☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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DETAILED ACTION

Oath/Declaration

The reissue oath or Declaration filed July 18, 1997 is objected to as being defective. As to Applicants independent claims 1 and 17, there is no explanation of “how” the error(s) arose. All the declaration states is the obvious, i.e., that “the prior counsel did not file any claim in the patent application of the scope now sought”. This merely indicates why this reissue was filed. It does not state “how” the errors occurred, that is, why did the patent include such “narrow” language? Why wasn’t broader language used in the patent claims? What led Applicants to accept such narrowed limitations? Also, the declaration is completely silent about claim 24, “how” the errors arose in failing to provide a claim of its scope. It, also, doesn’t indicate, “when” the errors arose, “how” they were discovered, and “when” they were discovered.

ASSENT

The Assent has not been provided as required by Rule 3.73(b). The Assent must:

establish ownership by;

- a)(1). Submitting to the Office copies of the documentary evidence of a chain of title from the original inventor to the assignee, or
- (2). Specifying, by reel and frame number, for example, where such documentary evidence is recorded in the Office.

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b). There is further requirement that the Assignee submit a statement specifying that the evidentiary documents have been reviewed and certifying that, to the best of the Assignee's knowledge and belief, title is in the Assignee seeking to take action.

c). The statement under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following two manners if the assignee is an organization(e.g., Corporation, partnership, university, government agencies, etc.);

1). The statement may be signed by a person in the organization. An officer (president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization; or

2). The statement may be signed by any person, if the statement includes an averment that the person is empowered to sign the statement on behalf of the assignee and, if not signed by a registered practitioner, the statement must be in oath or declaration form.

Applicants have failed to file an ASSENT.

Claims 1-124 are again rejected as being based upon a defective reissue Declaration under 35 USC 251, for reasons as set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Taylor whose telephone number is (703) 308-1013. The examiner can normally be reached on Monday through Thursday from 6:30 A. M. to 5:00 P. M.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tamara Graysay, can be reached on (703) 308-2144. The fax phone number for this Group is (703) 305-3597 or 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.


DENNIS L. TAYLOR
PRIMARY EXAMINER
ART UNIT 3506

September 30, 1997
(8) 612128.f